

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

www.spb.ca.gov

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

MAY 22, 2001

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President
William Elkins, Vice President
Richard Carpenter, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The State Personnel Board's budget was considered in five Senate and Assembly Subcommittee hearings. Staff testified in three of the hearings (our budget requests were approved without testimony in the remaining hearings).
- B. State Personnel Board staff in conjunction with staff of Senator Murray's office are coordinating a major career fair in Los Angeles on June 7, 2001. The fair will include representatives from major state departments, private sector companies and on-site testing for clerical positions. We anticipate over 5000 participants.
- C. Laura Aguilera has been appointed Assistant Executive Officer for the State Personnel Board.

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3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation:

- A. Manriquez v. State Personnel Board - Third District Court of Appeal has rescheduled oral argument for May 23, 2001.
- B. Professional Engineers in California Government v. State Personnel Board - Third District Court of Appeal has rescheduled oral argument for May 23, 2001.
- C. Buder v. Office of Environmental Health Hazard Assessment - Trial continued to September 17, 2001.

Other:

- A. Chief Counsel Elise Rose, and Administrative Law Judge Mary Horst spoke at the annual Office of the Attorney General Continuing Education Conference on the topic of "What's New at the State Personnel Board."
- B. Chief Counsel Elise Rose, Appeals Division Chief Bill Heal, and Mediation Program Manager Matilda Bannerman-Richter spoke at the Employment Mediation in Higher Education and Public Employment Conference sponsored by UC Davis, State Personnel Board, and the California Center for Public Dispute Resolution. The conference was very well received.
- C. The State Personnel Board is offering two new classes, both of which debuted this month. The class on Medical Issues is team taught by Karen Brandt, a State Personnel Board attorney, and Margaret Teague, an attorney with the Department of Personnel Administration. The other class, State Personnel Board Hearings is taught by Bruce Monfross, another State Personnel Board attorney. Both classes were overbooked and very well received.

4. REPORT ON LEGISLATION - Judy Balmain

May 22, 2001

The State Personnel Board voted on the following:

- A. AB 805 (Shelley) - Will require state agencies that maintain a web-site to provide a link to any available translated material. It also requires state agencies

to include basic information on services provided by the agency in both Spanish and Chinese.

VOTE: Alvarado, Elkins, Carpenter - Aye.

- B. SB 987 (Escutia) - Will clarify and strengthen the Dymally-Alatorre Bilingual Services Act's enforcement provisions. Improve access to critical government services for non English speaking persons. Will strengthen the requirements of the Act by providing more effective monitoring and enforcement mechanisms.

VOTE: Alvarado, Elkins, Carpenter - Aye.

The Board was advised of the following:

- A. Walter Vaughn and Judy Balmain will be meeting with the California Association of Professional Scientists (CAPS) to attempt to resolve the Board's opposition to AB 619 (Wayne).
- B. SB 1006 (Soto) - Establishes a program to reimburse state employees for college expenses, is in the Senate Suspense file and will be heard May 30, 2001. (Board Sponsored).

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF MAY 1-2, 2001

ACTION: Adopted on May 22, 2001

VOTE: Alvarado, Elkins, Carpenter - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On May 22, 2001, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Carpenter - Aye.

COURT REMAND DECISION

May 22, 2001

JESSE BROWN, CASE NO. 98-0384
Appeal from constructive medical termination
Janitor
Department of General Services
ACTION: Submitted

PROPOSED DECISIONS

DAVID GONZALES, CASE NO. 00-1377E
Appeal from discrimination/retaliation
in selection/appointment
Carpenter II
Delano - State Prison
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

MICHAEL ESCOBAR, CASE NO. 00-2588
Appeal from dismissal
Medical Consultant
Department of Social Services
ACTION: Dismissal sustained

BRIAN RENNINGER, CASE NO. 00-4225
Appeal from ten-percent reduction
in salary for ten months
Medical Technical assistant
Delano - State Prison
Department of Corrections
ACTION: Ten percent salary reduction for ten months
sustained

STELLA OHAERI, CASE NO. 00-4164
Appeal from five-percent reduction in salary for three
months
Psychiatric Technician
Department of Developmental Services
ACTION: Five percent reduction in salary for three
months modified to an official reprimand

ROBERT GARDNER, CASE NO. 01-0060
Appeal from dismissal
Caltrans Transportation Engineer
Department of Transportation

May 22, 2001

ACTION: Dismissal sustained

KEVIN MCDOWELL, CASE NO. 99-5275

Appeal of discrimination/retaliation

Correctional Officer

Norco - Rehabilitation Center

Department of Corrections

ACTION: Dismissed discrimination/retaliation complaint
for lack of jurisdiction

DAVID MONTANEZ, CASE NO. 01-0031

Appeal from suspension for sixty
calendar days

Correctional Officer

Imperial - State Prison

Department of Corrections

ACTION: Suspension for sixty calendar days revoked

JIMMY L. STATON, CASE NO. 00-2729

Appeal from ten- percent reduction in
salary for twelve pay periods

Youth Correctional Counselor

Department of Youth Authority

ACTION: Ten percent reduction in salary for twelve pay
periods sustained

OSCAR R. MARTINEZ, CASE NO. 00-2316E

Appeal of discrimination and retaliation

Senior Youth Correctional Counselor

Department of the Youth Authority

ACTION: Discrimination and retaliation complaint
dismissed

CHARLES J. COLEMAN, CASE NO. 00-0895E/00-1862E

Appeal of discrimination and failure to reasonably
accommodate disability

Vocational Rehabilitation Counselor

Department of Rehabilitation

ACTION: Discrimination complaints and failure to
reasonably accommodate disability denied

A. JAY SEIDEL, CASE NO. 01-0041

Appeal from 30-calendar day's suspension

Correctional Sergeant

Calipatria - State Prison

May 22, 2001

Department of Corrections

ACTION: 30 calendar days suspension revoked

TED SMAIL, CASE NO. 00-2224

Appeal from demotion from the position
of Correctional Sergeant to the position
of Correctional Officer

Wasco - State Prison

Department of Corrections

ACTION: Demotion sustained

ELAINE GEE, CASE NO. 99-2446

Appeal of discrimination/retaliation
Correctional Counselor I

Delano - State Prison

Department of Corrections

ACTION: Discrimination/retaliation appeal denied

JEANETTE WITTER, CASE NO. 99-4846

Appeal from demotion from the position
of Supervising Registered Nurse I to the
position of Registered Nurse II

High Desert - State Prison

Department of Corrections

ACTION: Demotion revoked

VIRGINIA HAWORTH, CASE NO. 99-2773

Appeal from ten- percent reduction
in salary for 12 months

Vocational Instructor-Janitorial Services

Tracy - Deuel Vocational Institution

Department of Corrections

ACTION: Ten percent reduction in salary for twelve
months sustained

LUFINO R. MEJORADO, CASE NO. 00-3208

Appeal from dismissal

Correctional Officer

Solano - State Prison

Department of Corrections

ACTION: Dismissal modified to a seven months suspension

GWENDOLYN HILL, CASE NO. 01-0108

Appeal from rejection during
probationary period

Hospital Worker

Department of Veterans Affairs

ACTION: Dismissed rejection during probationary period
as untimely

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STEVEN A. CLINE, CASE NO. 00-3321

Appeal from constructive medical
termination

Police Officer

San Diego - California State University

California State University

ACTION: Granted constructive medical termination

D. KIRK SANDEEN, CASE NO. 00-3024

Appeal from constructive medical termination

Janitor

Department of California Highway Patrol

ACTION: Denied constructive medical termination as
untimely

ROBERT WHITE, CASE NO. 00-1876

Appeal from constructive medical termination

Correctional Officer

Norco - California Rehabilitation Center

Department of Corrections

ACTION: Granted constructive medical termination

YUANGUAN GE, CASE NO. 00-2649

Appeal from rejection during the probationary period

Transportation Engineering Technician

Department of Transportation

ACTION: Rejection during probationary period sustained

WAYNE D. LANG, CASE NO. 00-3191

Appeal from five-percent reduction in salary for twelve
months

Senior Property Agent

Department of Veterans Affairs

ACTION: Five percent reduction in salary for twelve
months modified to five-percent reduction in salary for
six months

GENA L. BOYD, CASE NO. 01-0598

Appeal from official reprimand

Correctional Officer

Imperial - State Prison

Department of Corrections

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ACTION: Official reprimand sustained

EMILIO C. DEL RIO, CASE NO. 00-3291

Appeal from ten-percent reduction in salary for six months

Youth Correctional Counselor

Department of the Youth Authority

ACTION: Ten-percent reduction in salary for six months revoked

BOBBIE R. FLOYD, CASE NO. 00-1224

Appeal from rejection during probationary period

Supervising Registered Nurse I

Soledad - State Prison

Department of Corrections

ACTION: Rejection during probationary period denied

PETITIONS FOR REHEARING

ANGELINA EMERICK YOUNG CASE NO. 00-0843P

Appeal from constructive medical suspension

Accounting Technician II

California State University-San Diego

ACTION: Petition for rehearing filed by Appellant denied

JAMES BENNETT, CASE NO. 00-2537P

Appeal from Demotion

Correctional Sergeant to the position of Correctional Officer

Avenal - State Prison

Department of Corrections

ACTION: Petition for rehearing filed by Appellant denied

RICHARD TWEET, CASE NO. 00-2419P

Appeal from One-step Reduction of Salary for Six Months

Correctional Officer

Vacaville - State Prison

Department of Corrections

ACTION: Petition for rehearing filed by Appellant denied

ANGEL VILLALOBOS, CASE NO. 00-00-35P

Appeal from Dismissal

Youth Correctional Officer

Department of Youth Authority

ACTION: Petition for rehearing filed by

May 22, 2001

Appellant denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 16-19

8. WITHHOLD APPEALS

On May 22, 2001, the Board adopted the following
decisions presented by Walter Vaughn, Executive Officer,
California State Personnel Board.

VOTE: Alvarado, Elkins, Carpenter - Aye.

- A. DAVID GUTHRIE, CASE NO. 00-0628
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED
- B. ROBERT DURHAM, CASE NO. 00-0990
Classification: Psychiatric Technician Trainee
Department of Developmental Services
ACTION: DENIED
- C. GEORGE C. CAVALIERI, CASE NO. 00-3219
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- D. ELIAS C. NAVARRO, CASE NO. 00-3345
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED
- E. MICHAEL RUSSELL, CASE NO. 00-3207
Classification: Youth Correctional Counselor
Department of the Youth Authority
ACTION: DENIED
- F. MICHAEL E. SEVERIN, CASE NO. 00-3222
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED
- G. RUSSELL L. STANLEY, CASE NO. 00-3221
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

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H. MAURICE TIMES, CASE NO. 00-2263
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

I. JORGE HUERTA, CASE NO. 00-3229
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED

9. MEDICAL APPEALS

On May 22, 2001, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Alvarado, Elkins, Carpenter - Aye.

A. CHAD STOKES, CASE NO. 00-3429
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED

B. SCOTT CARROLL, CASE NO. 00-2924
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED

C. JUSTIN HOPSON, CASE NO. 01-0470
Classification: Cadet, CHP
State Personnel Board
ACTION: GRANTED

D. RYAN PATRICK, CASE NO. 01-0005
Classification: Cadet, CHP
California Highway Patrol
ACTION: GRANTED

E. TERRY WILLARD, CASE NO. 00-2464
Classification: Fire Fighter, CF
Department of Corrections
ACTION: DISMISSED

10. EXAMINATION APPEALS - "A"

MERIT ISSUE COMPLAINTS - NONE

On May 22, 2001, the Board adopted the following decision presented by Walter Vaughn, Executive Officer, California State Personnel Board.

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VOTE: Alvarado, Elkins, Carpenter - Aye.

A. PATRICIA HEWITT, CASE NO. 00-3482
Classification: Legislative Representative
Department of Education
ACTION: GRANTED

11. RULE 212 OUT-OF-CLASS APPEALS - NONE
VOIDED APPOINTMENT APPEALS - "A"
RULE 211 APPEALS - NONE
On May 22, 2001, the Board adopted the following decision
presented by Walter Vaughn, Executive Officer, California
State Personnel Board.
VOTE: Alvarado, Elkins, Carpenter - Aye.

A. TROY ALLEN SILVA, CASE NO. 00-4137
Classification: Assistant Information System
Analyst
Franchise Tax Board
ACTION: DISMISSED

12. REQUEST TO FILE CHARGES CASES - "A-B"
PETITIONS FOR REHEARING CASES - NONE
On May 22, 2001, the Board took the following actions
presented by Walter Vaughn, Executive Officer, California
State Personnel Board.
VOTE: Alvarado, Elkins, Carpenter - Aye.

A. CHARLIE SOLT, CASE NO. 00-2134
Mr. Solt is a Business Representative, IUOE,
representing Lex Villnes, Scott Ross, and Timothy
McDermott employees with the Department of
Corrections
ACTION: DENIED

B. FLOYD CALDWELL, CASE NO. 00-2667
An employee of the California Department of
Corrections
ACTION: DENIED

13. NON-HEARING CALENDAR
On May 22, 2001, the Board adopted items A-D. These
items were presented by Laura Aguilera, Assistant
Executive Officer and Acting Chief, Personnel Resources

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and Innovations Division, California State Personnel Board.

VOTE: Alvarado, Elkins, Carpenter - Aye.

A. CRIME VICTIMS RESOLUTION OFFICER SERIES

The Victim Compensation and Government Claims Board proposes to retitle the classification series of Crime Victims Resolution Officer; to revise the series specification and the alternate range criteria.

B. CONSERVATION ADMINISTRATOR II, CCC

The California Conservation Corps (CCC) proposes to revise the specification for the Conservation Administrator II, CCC appearing in the Conservation Administrator, CCC series specification.

C. ASSOCIATE SAFETY ENGINEER (AMUSEMENT RIDES)

SENIOR SAFETY ENGINEER (AMUSEMENT RIDES)

The Department of Industrial Relations proposes the establishment of two new classifications: Associate Safety Engineer (Amusement Rides) with a six-month probationary period and Senior Safety Engineer (Amusement Rides) with a 12-month probationary period.

D. SUPERVISOR OF CORPSMEMBER DEVELOPMENT PROGRAMS

The California Conservation Corps proposes to establish a new class: Supervisor of Corpsmember Development Programs, California Conservation Corps with a 12-month probationary period.

14. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

NONE PRESENTED

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) PENSION INVESTMENT OFFICER

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The State Treasurer's Office's request to allocate the above position to the CEA category has been approved effective April 16, 2001.

- (2) CHIEF ARCHITECT, CALIFORNIA CHILD SUPPORT
AUTOMATED SYSTEMS PROJECT
The Franchise Tax Board's request to allocate the above position to the CEA category has been approved effective April 16, 2001.
- (3) ASSISTANT SECRETARY, PROGRAM AND FISCAL AFFAIRS
The California Health and Human Services Agency's request to allocate the above position to the CEA category has been approved effective April 20, 2001.
- (4) PROGRAM MANAGER, LOCAL ASSISTANCE PROGRAM
The Department of Transportation's request to allocate the above position to the CEA category has been approved effective April 20, 2001.
- (5) EXECUTIVE DIRECTOR, FIELF ACT ADVISORY BOARD
The Department of General Services, Division of the State Architect's request to allocate the above position to the CEA category has been approved effective April 20, 2001.
- (6) PENSION AND BENEFITS OFFICER
The State Treasurer's Office's request to allocate the above position to the CEA category has been approved effective April 20, 2001.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

- (1) DEPUTY COMMISSIONER, CONSUMER SERVICES &
MARKETING CONDUCT BRANCH
The Department of Insurance is requesting to refill the above position.

D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

- (1) CHIEF, MEDICAL REVIEW BRANCH

May 22, 2001

The Department of Health Services' request to refill the above position has been approved effective April 20, 2001.

(2) DEPUTY DIRECTOR, ADMINISTRATION

The California Science Center's request to refill the above position has been approved for a 2-year period effective April 20, 2001.

(3) DEPUTY EXECUTIVE DIRECTOR

The California Building Standards Commission's request to refill the above position has been approved effective April 30, 2001.

ACTION: Noted

15. WRITTEN STAFF REPORT FOR BOARD INFORMATION

- A. Annual report to the Legislature on formal discrimination complaint activity in State civil service for the calendar year 2000.

ACTION: Report presented

A D J O U R N M E N T

May 22, 2001

SUBMITTED

1. ROMONDO SIZEMORE, CASE NO. 00-0418. Appeal from dismissal. Department of Corrections. (Oral argument held March 6, 2001).

NO ACTION

2. MICHAEL BURVANT, MD., CASE NO. 00-0854. Appeal from dismissal. Department of Corrections. (Oral argument held April 5, 2001).

NO ACTION

3. CHARLES ALEXANDER, CASE NO. 98-2769 AND RICHARD NEWTON, CA[E NO. 98-2769. Appeals from whistleblower/retaliation complaints. Department of Corrections. (Oral argument held April 5, 2001).

NO ACTION

4. JOSEPH F. KENNEY, CASE NO. 00-0042. Appeal from dismissal. Department of Justice. (Oral argument held April 5, 2001).

NO ACTION

5. JOHN FLORES, CASE NO. 99-3499. Appeal from dismissal. Department of Mental Health. (Oral argument held April 5, 2001).

NO ACTION

6. STACY ROBERTSON, CASE NO. 00-2229. Appeal from dismissal. Department of Corrections. (Written testimony presented April 5, 2001).

NO ACTION

7. FERNANDO GANDARA, JR., CASE NO. 99-3867. Appeal from discrimination/retaliation complaint appeal. Department of Veterans Affairs. (Oral argument held April 5, 2001).

NO ACTION

8. STAFFORD LEWIS, CASE NO. 99-5021. Appeal from dismissal. Department of Corrections. (Oral argument held April 6, 2001).

NO ACTION

9. CURRY THOMAS, CASE NO. 00-2233. Appeal from 90-calendar days suspension. Department of Water Resources. (Oral argument held May 1, 2001).

NO ACTION

10. ROSELLEN M. BOOG, CASE NO. 00-0349 Appeal from Rejection during probationary period. California State University-Northridge. (Oral argument held May 1, 2001).

NO ACTION

May 22, 2001

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending

before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

May 22, 2001

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

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I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on May 22, 2001.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Alvarado, Elkins, Carpenter - Aye.